24.4.2007 Present: Mr. Lalit Kumar sharma, counsel for the appellant.

Mr. Suneet Goel, counsel for respondents N o.1 to 4.

Mr. V.D. Khidtta, Counsel for respondents No.5.

FAO No.554 of 2003

Mr. Suneet Goel, learned counsel appearing for respondents No.1 to 4 has stated that the claim petition was erroneously filed under Section 163-A of the Motor Vehicle Act, 1988 instead of Section 166 of the Act. He prays that he may be permitted to withdraw the claim petition with liberty to file fresh claim petition on the same cause of action. Learned counsel for the appellant has no objection. In view of this statement of learned counsel, the award dated 1.4.2003 passed by learned Motor Accident Claims Tribunal(II), Shimla in M.A.C.C No.76-S/2 of 1999, is set aside. The respondents No.1 to 4 are permitted to withdraw the claim petition with liberty to file fresh claim petition on the same cause of action.

On 5.5.2005 this Court has released a sum of Rs.25,327/- to claimants. The claimants are directed to return this amount to appellant within three months. In case, the fresh claim petition under Section 166 of the Motor Vehicle Act is filed by respondents No.1 to 4 then the Tribunal will decide such claim petition in one year from the date of filing of the claim petition.

(Kuldip Singh)
Judge.

April 24, 2007
(sks)